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U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

KEITH L. GILCREAST,

) **Case No. 5:06-cv-556**

)

)

Petitioner,

) **Judge Dan Aaron Polster**

)

vs.

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)

ORDER

EDWIN C. VOORHIES, Jr., WARDEN,

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Respondent.

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Before the Court is the Report and Recommendation of Magistrate Judge David S. Perelman ("R&R") (ECF No. 11). Pending is the habeas corpus petition filed, under 28 U.S.C. § 2254, by *pro se* petitioner Keith L. Gilcreast (ECF No. 1). Gilcreast challenges the constitutionality of his convictions on myriad charges. The petition alleges due process and ineffective assistance of counsel issues. Respondent moved to have the petition dismissed as time-barred on July 31, 2006. (ECF No. 7.) The Magistrate Judge, in a thorough, comprehensive, and well-written R&R dated October 4, 2006, recommended that the petition be

dismissed with prejudice as time-barred. On January 9, 2007, Gilcreast filed his Objections to the Magistrate Judge's R&R (ECF No. 19).¹

Having reviewed the record and the relevant case law, the Court agrees with the Magistrate Judge's findings and conclusion. It is clear that Gilcreast's habeas corpus petition was filed outside of the applicable one year statute of limitations; his conviction became final on July 27, 2004, the one year statute of limitations for filing a habeas petition expired on July 28, 2005, and Gilcreast filed the instant petition on February 28, 2006. Moreover, there is nothing in the record to suggest that equitable tolling of the limitations period is warranted, and as such, Gilcreast's petition was untimely pursuant to 28 U.S.C. § 2244(d).

Accordingly, the Court hereby **OVERRULES** Gilcreast's Objections (ECF No. 19), and **ADOPTS** the Magistrate Judge's Report and Recommendation (ECF No. 11) in full. Consequently, the underlying petition for writ of habeas corpus (ECF No. 1) is **DENIED**.

IT IS SO ORDERED.



Dan Aaron Polster
United States District Judge

¹The Court notes that the docket reflects two documents filed by Gilcreast entitled "Objection to Report and Recommendation," ECF Nos. 17 and 19. The proper Objections to the Magistrate's R&R are contained in ECF No. 19.